

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RODNEY H.S. KIM,

Petitioner-Appellant,

v.

UNITED STATES OF AMERICA,

Respondent-Appellee.

Case No. C01-5720FDB

ORDER DENYING CERTIFICATE
OF APPEALABILITY

This Section 2241 Petition was denied as successive. Petitioner has filed an appeal, and the Ninth Circuit has filed an order that the District Court must determine whether or not to issue a certificate of appealability. As this Petition is successive and seeks to amend a petition that has already been denied, and, further, because *United States v. Booker*, 543 U.S. ____ (2005) has not been held to be retroactive, appeal is inappropriate. NOW, THEREFORE,

IT IS ORDERED: Certificate of Appealability is DENIED.

DATED this 16th day of September, 2005.



FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE

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